

HOUSE BILL 1287

By Butt

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 47 and Title 67, relative to tobacco products.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1508, is amended by deleting the section in its entirety and by substituting instead the following language:

39-17-1508.

(a) It is unlawful for any person, including any retail business, to sell or otherwise furnish any of the following:

(1) Any cigarette, cigar, tiparillo, cigarillo or other tobacco product, singly or in packages of fewer than three (3), or other than in the original, sealed package in which the items were placed by the manufacturer that bears the health warning required by federal law, except that hotels, restaurants that seat at least twenty-five (25) patrons, and retail tobacco stores, as defined in § 39-17-1802, may sell in small quantities cigars for which the retail price is at least one dollar (\$1.00) per cigar;

(2) Cigar or cigarette rolling papers; or

(3) Any flavored tobacco item including any flavored cigarette, cigar, tiparillo, cigarillo or other tobacco product, except that, to the extent that it is not prohibited from sale or other distribution by the Family Smoking Prevention and Tobacco Control Act (Public Law 111-31 June 2009), or regulations promulgated thereunder, the term "tobacco item", as used in this subdivision (a)(3), does not include a package of loose tobacco, snuff, chewing tobacco, dipping tobacco, or pipe tobacco, where

the item is in the original, sealed package in which the item was placed by the manufacturer that bears the health warning required by federal law, and provided that this subdivision (a)(3) shall not apply to cigarettes in packages of twenty (20) or more included in the directory published pursuant to § 67-4-2602.

(b)

(1) It is unlawful for any person, including any retail business, to sell or offer for sale within five hundred feet (500') of a school, recreation center, day care center, church, or community center any of the items identified in subsection (a) or drug paraphernalia as defined in § 39-17-402 regardless of the intent as to use of the item.

(2) This subsection (b) shall not apply to the following:

(A) Any business establishment that was in operation at a location within five hundred feet (500') of a school, recreation center, day care center, church, or community center prior to July 1, 2010, and that regularly derived income from the lawful sale of any of the items identified in subsection (a) or drug paraphernalia as defined in § 39-17-402 prior to July 1, 2011; or

(B) Any business establishment that was in operation at a location more than five hundred feet (500') of a school, recreation center, day care center, church, or community center prior to July 1, 2010, and that regularly derived income from the lawful sale of any of the items identified in subsection (a) or drug paraphernalia as defined in § 39-17-402 prior to July 1, 2011, but the location of which becomes within five hundred feet (500') of a school,

recreation center, day care center, church, or community center on or after July 1, 2011, due solely to the construction or expansion of a school, recreation center, day care center, church, or community center.

(3) The exceptions provided by subdivision (b)(2) shall cease to apply to any business establishment to which it would otherwise apply, if such establishment ceases to derive income from the sale of any of the items identified in subsection (a) or drug paraphernalia as defined in § 39-17-402 on or after July 1, 2011.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.